

LEGAL GUARDIAN OF VERNON CLEMONS, JR.

APRIL 3 (legislative day, MARCH 30), 1942.—Ordered to be printed

Mr. ELLENDER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 809]

The Committee on Claims, to whom was referred the bill (H. R. 809) for the relief of the legal guardian of Vernon Clemons, Jr., having considered the same, report favorably thereon with the recommendation that the bill do pass with the following amendment:

Page 1, line 7, strike out the figures "\$2,835.50" and insert "\$2,335.50".

The facts are fully set forth in House Report No. 1711, Seventy-seventh Congress, second session, which is appended hereto and made a part of this report.

[H. Rept. No. 1711, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 809) for the relief of the legal guardian of Vernon Clemons, Jr., having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 1, line 5, strike out "Vernon Clemons, of New York City, the sum of \$5,000" and insert in lieu thereof "the legal guardian of Vernon Clemons, Jr., of New York City, the sum of \$2,835.50."

Page 1, line 9, strike out "the infant son of the said Vernon Clemons,"

At the end of the bill add: "Provided, That no part of the amount appropriated in this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding \$1,000."

Amend the title so as to read: "A bill for the relief of the legal guardian of Vernon Clemons, Jr."

The purpose of the proposed legislation is to pay to the legal guardian of Vernon Clemons, Jr., of New York City, the sum of \$2,835.50 in full settlement of all

claims for personal injuries arising out of an accident in which he was struck by a bicycle operated by a special-delivery messenger, which occurred on August 9, 1940.

STATEMENT OF FACTS

On August 9, 1940, Vernon Clemons was crossing One Hundred and Twenty-sixth Street, accompanied by two other boys with the green light in their favor; at One Hundred and Twenty-sixth Street, a one-way street going east, the boys looked westward before crossing to make sure that there was no one coming up St. Nicholas Avenue, from west to east. When approximately halfway across the intersection of One Hundred and Twenty-sixth Street, Clemons was suddenly, without notice, struck by a bicycle operated by a postal employee who was driving west on the east-bound One Hundred and Twenty-sixth Street. The operator of the bicycle hit the claimant with such speed that he was thrown to the pavement with such force as to fracture both the boy's legs in several places. As a result of the accident, Vernon Clemons sustained a fracture of the lower part of tibia and fibula and a compound fracture of the left tibia and fibula and that, as a result of these injuries, there has been expended the sum of \$335.50 for treatment in the Harlem Hospital.

The Post Office Department, in a report to the committee dated July 23, 1941, states that "the postal employee was riding a bicycle in an easterly direction on a one-way west-bound street when the claimant's son, a 12-year-old boy, ran between automobiles standing in the street awaiting a change in lights and collided with the messenger's bicycle. There is no material contradiction in the testimony in the case which indicates that there was negligence on the part of the postal employee and also on the part of the injured boy.

"While contributory negligence usually precludes recovery, the files of the case are transmitted without a definite recommendation, as it is believed properly determinable as a matter of legislative policy whether relief shall be granted."

Your committee cannot concur in the statement of the Post Office Department that Vernon Clemons was negligent, as he was crossing the intersection with the traffic signal in his favor, and he was struck by a bicycle headed in the wrong direction on a one-way street, and, therefore, it is recommended that the bill, as amended, do pass.

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., July 23, 1941.

HON. DAN R. MCGEEHEE,

Chairman, Committee on Claims, House of Representatives.

MY DEAR MR. MCGEEHEE: In compliance with the request of your committee dated March 17, I transmit for consideration with H. R. 809 all papers on file in the Department relating to the claim of Vernon Clemons, of New York City, in the sum of \$5,000, arising out of an accident involving a bicycle operated by a special delivery messenger which occurred on August 9, 1940.

It will be noted that the investigation of this accident disclosed that the postal employee was riding a bicycle in an easterly direction on a one-way west-bound street when the claimant's son, a 12-year-old boy, ran between automobiles standing in the street awaiting a change in lights and collided with the messenger's bicycle. There is no material contradiction in the testimony in the case which indicates that there was negligence on the part of the postal employee and also on the part of the injured boy.

While contributory negligence usually precludes recovery, the files of the case are transmitted without a definite recommendation as it is believed properly determinable as a matter of legislative policy whether relief shall be granted.

Very truly yours,

FRANK C. WALKER,
Postmaster General.

The following is a statement of the history and facts involved in the claim of Vernon Clemons, Jr., an infant at the age of 10 years, against the Post Office Department of the United States or United States of America for injuries sustained on the 9th day of August 1940.

The injured claimant, Vernon Clemons, Jr., resides at 244 West One Hundred and Twenty-second Street, New York City, with his parents, Vernon, father, and Viola, mother. He is a schoolboy who attends Public School No. 87, on St. Nicholas Avenue near One Hundred and Twenty-ninth Street.

On or about the 9th day of August 1940 the said claimant was crossing the said One Hundred and Twenty-sixth Street at the intersection of St. Nicholas Avenue, in company with two other boys of the same age, names, Clarence and Joe, the last names of these boys will be submitted later, if required, and the said boys reside at 362 St. Nicholas Avenue, apartment 1, in the city and county of New York.

The three boys were crossing the said One Hundred and Twenty-sixth Street with the lights green for north- and south-bound traffic, and red for east- and west-bound traffic. They were, therefore, crossing the said One Hundred and Twenty-sixth Street with the lights in their favor. The said One Hundred and Twenty-sixth Street is a one-way street, going east, and the said boys looked westward before crossing said One Hundred and Twenty-sixth Street, to make sure that there was no traffic crossing St. Nicholas Avenue from west to east.

After the boys had covered approximately half way across the intersection of One Hundred and Twenty-sixth Street, the injured claimant, Vernon Clemons, Jr. was suddenly, violently, and without notice struck by a bicycle operated and ridden by a postal employee in uniform and carrying mail who was driving west, in the east-bound One Hundred and Twenty-sixth Street. The rider of the said bicycle was one Daniel Piper who resides at 312 Manhattan Avenue, in the Borough of Manhattan, city of New York. The said driver Daniel Piper was operating the bicycle at such a swift and quick rate of speed that he threw the boy claimant, Vernon Clemons, Jr., to the floor with such force as to fracture the boy's both legs in several places.

The boy was immediately rushed to Harlem Hospital, a city hospital of the city of New York, and was treated there, and was a patient in the said hospital continuously from the 9th day of August 1940 until the 13th day of September 1940, or approximately 5 weeks. The boy, however, is still being treated by the outgoing patient department and clinic of the said Harlem Hospital, and, upon information received from them, will be required to secure treatment there for many months to come.

The driver of the said bicycle, the said Daniel Piper, admitted on the scene of the accident to one Joseph Taller, of 2076 Seventh Avenue, apartment 5, in the Borough of Manhattan, city of New York, that he was completely at fault going the wrong way, in a one-way street, but that he was in a hurry to finish his rounds for the day. The accident happened about 6 p. m. in the evening of that day and the day was clear and dry.

The infant according to the records of Harlem Hospital suffered a fracture of the lower part of the tibia and fibula, and a compound fracture of the left tibia and fibula. Whether there will be any permanent disability or impairment in the use of the leg or any shortening as a result of the fractures is at this time unknown and will not be known until the said infant is completely discharged.

To date the city of New York claims as a lien for its services while the infant was a patient in the said Harlem Hospital the sum of \$335.50.

Copies of the affidavits of the witnesses will be sent if requested.

Respectfully submitted.

SIDNEY J. UNGAR.

STATEMENT OF CLARENCE GRANT

I, Clarence Grant, state that he resides at Four hundred and sixteen St. Nicholas Avenue, apartment 10, in the city and State of New York. That he goes to Public School No. 157, and is in 5A-1.

That he was with Vernon Clemons, Jr., on the 9th day of August 1940 at the time that his friend, Vernon Clemons, Jr., was hit and hurt by a bicycle driven by a postal-delivery man in uniform.

Vernon and myself were crossing One Hundred and Twenty-sixth Street from the south to the north side of the street about 30 feet east of the east side of St. Nicholas Avenue, between St. Nicholas Avenue and Eighth Avenue. That One Hundred and Twenty-sixth Street is a west-bound street and, before crossing, Vernon and I both looked east toward Eighth Avenue to make sure that no cars were coming. There was absolutely no moving traffic going west on One Hundred and Twenty-sixth Street from Eighth to St. Nicholas Avenues and the light on the Eighth Avenue Street was red. Vernon started out across the street

a little ahead of me and when he had reached about half way across One Hundred and Twenty-sixth Street, this bicycle, driven by the postman coming east on One Hundred and Twenty-sixth Street and going the wrong way and unseen by both Vernon and myself, struck Vernon, knocking him down, the bicycle falling on top of him and both of them falling on top of me since I was right behind Vernon.

Vernon cried out terribly in pain and could not get up, although he tried. I scrambled out from underneath both of them and another man came and helped carry Vernon to the sidewalk. The postman just stood there and said and did nothing, except that I heard him say later to the man that helped pick Vernon up that he knows he was going wrong in a one-way street but that he was late and was in a hurry to complete his rounds.

This happened about 6 p. m. in the evening.

I am telling the story exactly as it happened, and I am doing this because Mrs. Vernon asked me to tell the lawyer exactly what happened.

CLARENCE GRANT.

STATE OF NEW YORK, CITY OF NEW YORK,
County of New York, ss:

Joe Taller, being duly sworn, deposes and says that I reside at 2076 Avenue, apartment 5, in the city and State of New York. That my business and occupation is chauffeur.

That on the 9th day of August 1940 I was standing in front of premises 323, West One Hundred and Twenty-sixth Street, in the Borough of Manhattan, city and State of New York, when I saw the accident in which Vernon Clemons, Jr., a boy whom I had not seen or known before, was hurt by a bicycle driven by and operated by a postman whose name I secured, being Daniel Piper.

The boy, Vernon, was crossing the street with another boy and was slightly in front of him. They were walking at a normal rate of speed, and at the time that the accident happened were looking east toward Eighth Avenue, apparently looking to see if there were any cars coming.

The postman was going east on One hundred and Twenty-sixth Street, which is a west-bound street, and was coming down the block at a very fast rate of speed. He hit the boy with such force as to knock him down into the other boy walking behind him, and then fall on top of both of them at the same time completely demolishing his bicycle.

I ran to where they were all laying; one of the boys jumped up; the postman got up and stood looking and, as I saw the other boy Vernon writhing on the ground in pain and unable to rise, I picked him up slowly and carried him to the sidewalk when an ambulance was called.

I interrogated and questioned the postman and he told me that he was going the wrong way on a one-way street because he was late and had to catch up on his rounds.

These are all of the facts that I know about in this matter, and I am making the statement at the request of the attorney for the boy, Vernon, merely to state what happened and I am not getting paid for the same.

JOE TALLER.

Sworn to before me this 30th day of November 1940.

A. EDWARD UNGAR, Notary Public.

Commission expires March 30, 1942.

CITY OF NEW YORK,
DEPARTMENT OF HOSPITALS,
COMPENSATION AND LIABILITY DIVISION,
New York City, September 10, 1940.

MR. VERNON CLEMONS, Sr.,
New York City:

For medical and surgical service rendered to Vernon Clemons (son), injuries, Aug. 9, 1940, at Harlem Hospital, from Aug. 9, 1940, to Sept. 3, 1940 (discharged):

25 days general institutional care, at \$5-----	\$125. 00
2 operating room fees, at \$10-----	20. 00
1 anesthesia, general-----	2. 50
1 laboratory test-----	1. 00
1 tetanus treatment-----	1. 00
X-ray services-----	16. 00
Ambulance service-----	10. 00
Operative procedure-----	160. 00
Total-----	335. 50

(Copy sent to attorney, Sidney J. Ungar, Esq.)

CITY OF NEW YORK,
DEPARTMENT OF HOSPITALS,
COMPENSATION AND LIABILITY DIVISION,
New York City, January 28, 1941.

MR. VERNON CLEMONS, Sr.,
New York City:

For medical and surgical service rendered to Vernon Clemons (son), injuries, Aug. 9, 1940, at Harlem Hospital:

X-ray service, Oct. 28, 1940-----	\$8. 00
6 dispensary treatments (Sept. 6, 27; Oct. 11, 25; Nov. 1, 15), at \$2-----	12. 00
Total-----	20. 00
Bills aggregate-----	355. 50

(Copy sent to your attorney, Sidney J. Ungar, sq.)

POST OFFICE DEPARTMENT,
OFFICE OF INSPECTOR,
New York, N. Y., July 14, 1941.

Subject: New York, N. Y.: Accident on August 9, 1940, involving a bicycle operated by Substitute Clerk Daniel R. Piper with Vernon Clemons, Jr., resulting in personal injuries to both parties.

INSPECTOR IN CHARGE,
New York, N. Y.:

1. The above-numbered case has been given attention at New York, N. Y., on June 11, 1941, and subsequent dates.

2. In a letter dated June 4, 1941, herewith, the acting solicitor transmitted to the chief inspector the record and other correspondence of an accident, which occurred in New York, N. Y., on August 9, 1940, involving Vernon Clemons, Jr., who was injured when he collided with a bicycle operated by Substitute Post Office Clerk Daniel R. Piper. The acting solicitor further advises that a bill has been introduced in the United States Congress for the relief of the injured boy's father and requests that the matter be investigated for the purpose of determining whether the postal employee was officially on duty at the time of the accident and with whom responsibility rests. Correspondence between the Department and the postmaster at New York is within the file; also a statement by the postal employee, and various communications between the Committee on Claims for the House of Representatives and the Post Office Department. A copy of the bill for the relief of Vernon Clemons is also in the file and is known as H. R. 809 of the Seventy-seventh Congress.

3. On June 11, 1941, Daniel R. Piper, substitute clerk, was questioned at this office. Substitute Piper, who is colored, states he is 30 years of age, single, and resides with his parents at 312 Manhattan Avenue, this city. He has been a postal employee for the past 4 years and has been assigned to various stations in this city. Since February 1, 1940, he has been performing carrier duties at station J, 309 West One Hundred and Twenty-fifth Street, New York City. On August 9, 1940, he was assigned to the delivery of special-delivery mail and was given a run of 16 articles, divided between sections 3 and 4. He left the station at 5:36 p. m. on that date and proceeded on his bicycle to make the deliveries. He claims to have been using this type of conveyance in the handling of special-delivery mail for about 6 months and at that time knew of no order prohibiting the use of bicycles for this purpose. He completed his last delivery at 25 Convent Avenue at about 6:30 p. m. and started back in the direction of the station, traveling southward on St. Nicholas Avenue to West One Hundred and Twenty-sixth Street. At this point he turned east into One Hundred and Twenty-sixth Street, intending to enter the station from the rear, such entrance being located between St. Nicholas and Eighth Avenues but closer to the former. He noted there was a line of autos on West One Hundred and Twenty-sixth Street, at St. Nicholas Avenue, awaiting the change of the traffic light at that intersection. He turned between the line of cars and the north curb line, and when about 30 feet beyond the intersection, two boys, about 12 years of age, ran from between the cars into his path. The boys ran between the cars near the north curb line, one youth following the other. The one leading, Vernon Clemens, Jr., collided with the frame of Piper's bicycle, striking it between the sprocket and the front steering post. Piper was thrown to the right, clear of the bicycle, and the vehicle landed on his left near the north curb. Clemens, the injured boy, was between the bicycle and Piper. The postal employee went to the injured boy and noticed there was a large bruise on his left leg, between the knee and ankle. He claims that with assistance he carried him to a house stoop and then called an ambulance. He then returned to the station, punched the clock, and went back to the scene of the accident. The ambulance doctor from the Harlem Hospital informed Piper that Clemens had a compound fracture of the leg and he was subsequently removed to that institution. Piper received minor knee injuries and was treated at the Marine Hospital. He was absent from duty about 1½ days' time.

4. Piper informs that a number of persons standing in front of their houses on West One Hundred and Twenty-sixth Street witnessed the accident, but he was able to obtain the name of only one man. This man, Raphael Santoro, operated an ice business at 325 West One Hundred and Twenty-sixth Street. Piper acknowledges that after leaving St. Nicholas Avenue he proceeded east on One Hundred and Twenty-sixth Street, intending to enter the station at the rear. He informs that One Hundred and Twenty-sixth Street at this point is one way for westbound traffic. His reason for proceeding improperly on the street is that considerable travel would be incurred if he were to enter the street from the proper direction. He points out that he would have to enter West One Hundred and Twenty-sixth Street at Eighth Avenue and in order to get to this point he would have to travel south on St. Nicholas Avenue to West One Hundred and Twenty-fifth Street, east on the latter street to Eighth Avenue, north on Eighth Avenue to West One Hundred and Twenty-sixth Street, and then to the station. It is not possible for him to reach Eighth Avenue from St. Nicholas Avenue except through One Hundred and Twenty-fifth Street, as West One Hundred and Twenty-sixth and One Hundred and Twenty-seventh Streets are one way for westbound traffic, and north of One Hundred and Twenty-seventh Street is a city park and playground, and no vehicle is permitted therein. Piper insisted that because of limited time (special delivery runs must return within the hour) it was and is necessary to take short cuts whenever possible. Regardless of which way he was traveling on One Hundred and Twenty-sixth Street, it would not have been possible to avoid the accident, since he had not seen the boys until they were close on him, as they had come from between the lanes of waiting autos in the middle of the street. He does not believe that any responsibility for the accident rests with him, despite the fact that he was operating his vehicle against traffic laws of the city of New York.

5. On July 5, Mr. Raphael Santoro, 2678 Valentine Avenue, Bronx, New York, N. Y., called at this office. Mr. Santoro is an Italian, and speaks and understands very little English. He does not read or write the language and his son, who accompanied him, acted as interpreter. It was learned that Mr. Santoro had witnessed the accident and had seen one boy chasing the other. He claims that the second boy was injured when he ran into the bicycle. There

was a number of autos waiting at the intersection for the light to change and Mr. Santoro believes that the injured boy was at fault since he was running between the vehicles.

6. The injured boy, Vernon Clemons, Jr., colored, age 11, was interviewed at this office on July 8, 1941. In a statement, herewith, he advises that on August 9, 1940, he was playing with two of his friends on the south sidewalk of West One Hundred and Twenty-sixth Street, near St. Nicholas Avenue. He, and one of his friends, Clarence Grant, decided to leave that point and go to a park on St. Nicholas Avenue. They started to cross West One Hundred and Twenty-sixth Street from the south to the north side, at a point about 25 feet from St. Nicholas Avenue. Clemons claims that he was trotting and that Grant was following him. He states that three cars were abreast one another waiting for the traffic light to change and that they crossed behind the cars. Suddenly, without warning, a person riding a bicycle came down (east) One Hundred and Twenty-sixth Street. He did not see the bicycle and the front wheel of it struck him. He does not recall what happened thereafter, although he remained conscious. He was confined to the hospital for about a month with a compound fracture of the left leg and after being released therefrom he limped for a while. He claims he has no trouble walking now, but on some days the injured member pains him after walking a little distance. He has a scar on his shin as a result of the accident.

7. Clarence Grant, colored, age 13, was also interviewed at this office on July 8. He informs that he was playing with Vernon on West One Hundred and Twenty-sixth Street on August 9, 1940, and that they started to cross the street from the south to the north curb at a point approximately 25 feet from the corner of St. Nicholas Avenue. He insists that both of them were walking and that there were 4 or 5 cars waiting for the change of traffic lights. They had passed behind these vehicles and looked the way other vehicles would approach, that is, to their right. They did not expect traffic from their left as the street is one way and consequently failed to notice the person on a bicycle proceeding down (east) One Hundred and Twenty-sixth Street. He claims that the bicycle struck Vernon who fell backward, knocking him down. Grant, however, was not injured.

8. On July 8, 1941, Joseph Tyler, who claims to have been a witness to the accident, was interviewed. Tyler, who is colored, is a part-time laborer and chauffeur with a wrecking company and on August 9, 1940, he was employed at 323 West One Hundred and Twenty-sixth Street. He was standing on the sidewalk in front of this address and heard a person on a bicycle apply his brakes, causing a squeaking noise. Looking up, he noted that a bicycle was proceeding east on One Hundred and Twenty-sixth Street and that it was bearing down on two young boys who were crossing the street from the south to the north side. He states that the boy in front was struck by the bicycle and that the other boy fell. He believes that the boys did not notice the bicycle since they had looked for traffic proceeding toward St. Nicholas Avenue. He has no recollection of any cars awaiting the change of traffic lights at St. Nicholas Avenue and One Hundred and Twenty-sixth Street, and states that those cars in the street were some distance away, near Eighth Avenue. As near as he can recall, the point at which the boys crossed the street was close to the rear entrance of the post office and some distance from St. Nicholas Avenue. He insisted that he picked up the injured youth from the street and brought him to the sidewalk, and at that time thought he was more seriously hurt than he actually was.

9. Considerable difficulty was experienced in obtaining interviews with all of the witnesses for the injured boy. Finally at the request of Mr. Sidney Ungar, attorney for Vernon Clemons, Jr., they called at this office. Mr. Ungar was also present. After the interview had been completed he was permitted to read the statements of the witnesses before they were signed. They had been prepared exactly from the words of the persons submitting them but Mr. Ungar insisted on making certain changes before their signatures were affixed. The attorney informed me that approximately \$1,000 expense had been incurred in hospital bills and appliances as a result of the injury to Vernon Clemons, Jr., the majority of this amount is owed to the city of New York.

10. It will be noted that the statements of Grant and Vernon Clemons, Jr., are at variance in that the latter states they were trotting while Grant informs they were walking. However, both agree that they passed behind the vehicles, while Santoro and Piper insist that the boys were running between the vehicles. It is noted that all agree that the point at which the boys crossed was about 30

feet in from the intersection at St. Nicholas Avenue and One Hundred Twenty-sixth Street. A sketch of the scene of the accident has been made and the various lines and directions of traffic have been noted thereon.¹

11. Article 1, section 1, paragraph 13, of the Traffic Regulations for the city of New York, states in part as follows:

"The term vehicle shall include any motor vehicle (as defined in the vehicle and traffic law of the State of New York), wagon, carriage, omnibus, sleigh, streetcar, pushcart, horse, bicycle, tricycle, or other conveyance (except a baby carriage)."

12. Inquiry was made of the superintendent of the Harlem Hospital, this city, to determine the extent of the injuries sustained by Vernon Clemons, Jr. In reply thereto, the medical superintendent of that institution advises that the patient was admitted on August 9, 1940, with a compound fracture of the left tibia and fibia. Treatment consisted of debridement followed by reduction and immobilization in a plaster cast. He was discharged on September 3, 1940, to the out-patient department for follow-up treatment. His condition on discharge is said to have been improved.

13. A photostat of the special-delivery record of the station J post office for August 9, 1940, has been obtained and is within the file. It indicates that Substitute Daniel R. Piper on this date effected delivery of 14 articles in section 3 and 2 articles in section 2 (should be section 4). Forms 3951, listing the articles, have been punched by the time clock, indicating that Piper left the office at 5:36 p. m. and returned at 6:38 p. m., on August 9, 1940. It would, therefore, appear that the accident occurred while the messenger was officially employed.

14. Inquiry was made of the postmaster at New York, N. Y., to determine if any instructions had been issued prohibiting the use of bicycles in the delivery of special-delivery mail. It was learned that none have been issued either prohibiting or sanctioning the use of such conveyance while officially employed. Bicycle users have been verbally cautioned in proper operation of their vehicles at station J, and it is agreed the use of such conveyance is essential in handling special-delivery matter in this area.

15. The facts disclosed by the investigation would indicate that Substitute Daniel R. Piper, when returning to the post-office station from a run of special-delivery mail, was involved in an accident with Vernon Clemons, Jr., while the latter person was running from the south to the north side of West One Hundred and Twenty-sixth Street, approximately 30 feet east of the intersection of that street with St. Nicholas Avenue. In view of the ruling of the police commissioner for the city of New York, set forth in his booklet entitled "Traffic Regulations" and outlined in paragraph 11, it would appear that rules applying to motor vehicles are applicable to bicycles. It has been acknowledged by the special-delivery messenger that he was proceeding improperly on West One Hundred and Twenty-sixth Street, since he was traveling east on a street which was designated as one-way westbound traffic. It is believed that the improper action of the messenger is the primary cause of the collision, and responsibility, therefore, rests with him. However, it should be pointed out that Vernon Clemons and Clarence Grant were running across the street, behind autos waiting in line. Such action on their part is also deemed improper, since it is believed they should have used the cross walk at the intersection of West One Hundred and Twenty-sixth Street with St. Nicholas Avenue for the purpose of reaching the north side of the street. While no regulation could be found regarding the crossing of streets at other than intersections, it should be noted that in the traffic regulations the right-of-way of pedestrians over vehicles is granted only at an intersection on a cross walk, and then if the traffic light is in their favor or if the cross walk is unprotected by a light. It is therefore concluded that Clemons contributed to the accident but in a lesser degree than Piper.

16. The case is returned herewith for reference to the Solicitor.

M. W. BROWN, *Post Office Inspector.*

¹ Not printed.

CITY OF NEW YORK,
DEPARTMENT OF HOSPITALS,
HARLEM HOSPITAL,
New York, N. Y., March 7, 1941.

Re Clemons, Vernon, 244 West One Hundred and Twenty-second Street, New York, N. Y., clinic No. 18526M.

SIDNEY J. UNGER, Esq.,
New York, N. Y.

DEAR SIR: Dr. Piazza, deputy medical superintendent of Harlem Hospital, has requested that I send to you the following record of the clinic findings of the above-captioned case:

This patient was admitted to Harlem Hospital on August 9, 1940, and discharged on September 1, 1940, with a diagnosis of compound fracture of the left tibia and fibula. This patient gave a history of having been hit by a bicycle, injuring his left leg.

At the time of discharge, X-ray showed good position with formation of callus.

This patient returned to our fracture clinic on September 6, 1940. It was noted at that time that the cast was satisfactory. X-ray was taken on October 28, 1940, and returned as follows: Reexamination of the left leg shows previously described fractures of the left tibia and fibula, in good condition; callus formation; cast.

On November 15, 1940, this patient was referred for physiotherapy treatment. This patient attended our fracture clinic six times between September 6 and November 15, 1940.

Very truly yours,

SANDER V. SMITH, M. D.,
Executive Physician Out-Patient Department.

[Privileged and Confidential]

CITY OF NEW YORK,
DEPARTMENT OF HOSPITALS,
HARLEM HOSPITAL,
New York, N. Y., March 7, 1941.

Re Clemons, Vernon; our chart No. 142933A.

SIDNEY J. UNGER,
Counselor-at-law, New York, N. Y.

DEAR SIR: Please be advised that my communication to you dated October 24, 1940, and again on February 10, 1941, contained the fact that this patient was admitted to Harlem Hospital on August 9, 1940, with a history of having been hit by a bicycle injuring his left leg. X-ray taken showed a fracture of the lower part of the tibia and fibula. This was a compound fracture. Patient was brought to the operating room where a "debridement and a reduction of the compound fracture of the tibia and fibula" were performed under anesthesia. A plaster cast was applied from the mid-thigh to the lower leg. Patient was again brought to the operating room on August 28, 1940, and at that time another plaster cast was applied to correct a posterior angulation.

The last X-ray taken on August 20, 1940, showed the fracture of the tibia and fibula in good position with beginning callus formation. Patient's condition improved and he was discharged on September 3, 1940, with the cast in place, to the clinic for further treatment.

I believe you probably received a copy of the clinic follow-up from Dr. Smith, executive physician of the out-patient department.

At the time patient was discharged from the hospital no opinion was rendered as to the permanency of the condition, if any.

Very truly yours,

ISRAEL MAGELANER, M. D.,
Medical Superintendent.
By FERDINAND PIAZZA, M. D.,
Acting Deputy Medical Superintendent.

THE UNIVERSITY OF CHICAGO
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540 EAST 57TH STREET
CHICAGO, ILL. 60637

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